

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TROY BAKER,

Defendant-Appellant.

UNPUBLISHED
October 27, 1998

No. 202454
Recorder's Court
LC No. 95-007917

Before: Gage, P. J., and Kelly and Hoekstra, JJ.

PER CURIAM.

Defendant was convicted by a jury of second-degree murder, MCL 750.317; MSA 28.549. The murder victim was a woman with whom defendant had an intimate relationship. Defendant was sentenced to twenty-one to forty years' imprisonment for the conviction. In this appeal as of right, defendant raises two issues which he claims require reversal of his conviction. We affirm.

First, defendant argues that the trial court clearly erred in refusing to suppress evidence of his statements to the police which he claims were the result of an illegal arrest. According to defendant, his arrest by the police was unconstitutional because the police lacked probable cause to arrest. Since the statements were made as a direct result of this allegedly illegal detention, defendant asserts they must be suppressed. We disagree.

When a defendant is detained or taken into custody by the police acting without a warrant, the detention is illegal unless the police have probable cause to arrest that defendant. *People v Lewis*, 160 Mich App 20, 25; 408 NW2d 94 (1987). Probable cause to arrest exists when the facts and circumstances within the officer's knowledge are sufficient to a prudent person, or one of reasonable caution, to believe that the suspect has committed or is committing a felony. *Id.* Where there is no probable cause to arrest, but the police take a defendant in custody for investigatory purposes, any evidence obtained as a result of that unlawful detention or any statements made must be suppressed. *Id.* This Court reviews a trial court's decision on a motion to suppress evidence to determine if it is clearly erroneous. *Id.*

At the time of the arrest, the police knew that on the day the victim's body was discovered, defendant had made several attempts by telephone to obtain information regarding the victim. Indeed, it was defendant's inquiries which lead to the discovery of the victim's body. Witnesses told the police that when defendant made these inquiries he sounded nervous. Defendant also admitted to these witnesses that he had last seen the victim near the time of her suspected death.

After interviewing the victim's friend, the police were aware that the victim had rejected defendant's proposal of marriage, that defendant did not take this rejection well, and that he was the "jealous type." The police also knew that a neighbor had heard the sound of a male and female fighting one night in the victim's apartment.

From the crime scene itself, the police gained additional information which led them to defendant. There were no signs of forced entry, suggesting that the victim knew her attacker. The victim was brutally assaulted about the head, suggesting a crime of passion. The victim's head was covered with a plastic bag, sweat pants and a pillow. One officer testified at trial that this would suggest to a seasoned officer that the attacker loved the victim very much and, therefore, could not stand to see what he had done and how he had hurt the victim. Finally, the police found a letter in the mailbox from defendant to the victim. Although defendant did not admit any culpability in the letter, defendant did apologize for hurting the victim and, in essence, was saying good bye to her.

From the foregoing evidence, the police could have reasonably concluded that the victim's attacker was somebody with whom she was intimately involved, i.e., defendant. We find that there was probable cause to arrest defendant. Even if there were a lack of probable cause, a freely given confession made after an illegal arrest does not per se require its suppression. *People v Washington*, 99 Mich App 330, 334; 297 NW2d 915 (1980). A defendant's illegal arrest does not require suppression of his confession unless there is a causal nexus¹ between the illegal arrest and the confession. *People v Spinks*, 206 Mich App 488, 496; 522 NW2d 875 (1994). Considering the time that elapsed between the arrest and the confession, and the absence of any official misconduct, we find no causal nexus between the arrest and the confession to mandate suppression. Therefore, we find that the trial court did not err in refusing to suppress defendant's statements.

Next, defendant argues that there was insufficient evidence to support defendant's conviction of second-degree murder because, absent defendant's confession, there was no showing that defendant committed the acts which resulted in the victim's death. We disagree.

When reviewing a claim regarding the sufficiency of the evidence, this Court examines the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Green*, 228 Mich App 684, 694; 580 NW2d 444 (1998). In this case, there was sufficient evidence to support defendant's conviction.

Defendant's claim that the evidence was insufficient is premised upon the faulty assumption that the confession was improperly admitted. Since we have concluded that the trial court did not err when it denied suppression of the statement, and in that statement defendant admitted to killing the victim, we find no merit in defendant's argument that there was insufficient evidence to convict him.

Affirmed.

/s/ Hilda R. Gage

/s/ Michael J. Kelly

/s/ Joel P. Hoekstra

¹ To determine whether there is a causal nexus between an illegal arrest and a confession, the following factors are examined:

(1) the time elapsed between the illegal arrest and the confession, (2) the flagrancy of official misconduct, (3) any intervening circumstances, and (4) any circumstances antecedent to the arrest. *Spinks, supra*.